

TAYLOR & PARTNERS, INC.

CONTRACT NO. V525P-1920

**VABCA-4903 & 4904**

VA MEDICAL CENTER  
BROCKTON, MASSACHUSETTS

**Elizabeth Karp, AIA**, Taylor & Partners, Inc., Boston, Massachusetts, for the Appellant.

**Stacey North Willis, Esq.**, Trial Attorney; **Charlma Jones, Esq.**, Deputy Assistant General Counsel; and **Phillipa L. Anderson, Esq.**, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

### **ORDER DISMISSING APPEALS**

1. The Board, in its June 14, 1996 NOTICE OF DOCKETING AND ORDER TO SHOW CAUSE, noted that, from the documents before it, the appeals appeared to be untimely. Correspondence received from the Appellant indicated that the Appellant received the Final Decision on February 26, 1996. However, the Notice of Appeal was postmarked May 28, 1996, or ninety-two (92) days after receipt of the Final Decision. The *Contract Disputes Act* (CDA), 41 U.S.C. § 601 et seq., provides in § 606 that:

Within *ninety days* from the date of receipt of a contracting officer's final decision under section 605 of this title, the contractor may appeal such decision to an agency board of contract appeals, as provided in section 607 of this title  
[emphasis supplied]

The time limitation on the filing of an appeal, as a statutory waiver of sovereign immunity, must be strictly construed. Thus, the Board is without discretion to assume jurisdiction over an appeal not filed within ninety days. ***Cosmic Construction Co. v. United States***, 697 F.2d 1389 (Fed. Cir. 1982); ***Olympus Corporation***, VABCA No. 3550, 92-2 BCA ¶ 24,856; ***Surgical Appliance Industries, Inc.***, VABCA No. 3674, 93-1 BCA ¶ 25,364.

2. We granted the Appellant until July 1, 1996 to SHOW CAUSE why these appeals should not be dismissed for lack of jurisdiction, pursuant to Board Rule 5. As of this date, no reply has been received from the Appellant.

3. Given the facts before the Board and the failure of the Appellant to respond, we conclude that we are without jurisdiction to consider these matters. Accordingly, the appeals of Taylor & Partners, Inc., VABCA- 4903 and VABCA-4904, are hereby dismissed pursuant to Board Rule 5.

**IT IS SO ORDERED**

DATE: **July 3, 1996**

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GUY H. MCMICHAEL III  
Chief Administrative Judge  
Panel Chairman

We concur:

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JAMES K. ROBINSON  
Administrative Judge

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MORRIS PULLARA, JR.  
Administrative Judge